

# Exhibit I

10 MAG 2701

PREET BHARARA  
United States Attorney for the  
Southern District of New York

By: MICHAEL D. LOCKARD  
Assistant United States Attorney  
(212) 637-2193

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
UNITED STATES OF AMERICA :

- v. - :

TO BE FILED UNDER SEAL

\$6,152,285.88 IN UNITED STATES  
CURRENCY ON DEPOSIT AT FIRST BANK  
OF DELAWARE, PHILADELPHIA,  
PENNSYLVANIA, IN ACCOUNT NUMBERED  
9016139;

AFFIDAVIT IN SUPPORT  
OF SEIZURE WARRANTS  
PURSUANT TO 18 U.S.C.  
§§ 981, 984 & 1955

ALL FUNDS ON DEPOSIT AT UMPQUA  
BANK, ROSEBURG, OREGON, IN ACCOUNT  
NUMBER 972402309, HELD IN THE NAME  
OF "ULTRA SAFE PAY," AND ALL  
PROPERTY TRACEABLE THERETO; AND

ALL FUNDS ON DEPOSIT AT HAWAII  
NATIONAL BANK, HONOLULU, HAWAII, IN  
ACCOUNT NUMBER 12008656, HELD IN  
THE NAME OF "MAS INC.", AND ALL  
PROPERTY TRACEABLE THERETO;

Defendants-in-rem.

----- X

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss:  
SOUTHERN DISTRICT OF NEW YORK )

ROSEMARY KARAKA, being duly sworn, deposes and says:

1. I am a Special Agent with the Federal Bureau of  
Investigation ("FBI"), and have been so employed for over 19  
years. I am presently assigned to a squad that investigates,  
among other things, financial institution fraud, illegal

gambling, and money laundering. I am familiar with the facts and circumstances set forth below from my personal participation in the investigation, my review of law enforcement reports and other pertinent documents, and my conversations with other law enforcement officers. Where the actions, statements, and conversations of others are recounted herein, they are recounted in substance and part, unless otherwise indicated. Because this affidavit is for the limited purpose of establishing probable cause for a seizure warrant, it does not set forth every fact learned in the course of this investigation.

2. This affidavit is submitted in support of the Government's application for the issuance of warrants to seize and forfeit the following:

- a. \$6,152,285.88 IN UNITED STATES CURRENCY ON DEPOSIT AT FIRST BANK OF DELAWARE, PHILADELPHIA, PENNSYLVANIA, IN ACCOUNT NUMBERED 9016139 (the "EPX Segregated Account");
- b. ALL FUNDS ON DEPOSIT AT UMPQUA BANK, ROSEBURG, OREGON, IN ACCOUNT NUMBER 972402309, HELD IN THE NAME OF "ULTRA SAFE PAY," (the "UMPQUA Account"), AND ALL PROPERTY TRACEABLE THERETO; AND
- c. ALL FUNDS ON DEPOSIT AT HAWAII NATIONAL BANK, HONOLULU, HAWAII, IN ACCOUNT NUMBER 12008656, HELD IN THE NAME OF "MAS INC." (the "HNB Account"), AND ALL PROPERTY TRACEABLE THERETO;

(the "Defendant Funds").

3. There is probable cause to believe that the Defendant Funds constitute or are derived from proceeds traceable to the operation of an illegal gambling business, in violation of 18 U.S.C. § 1955, and the illegal transmission of gambling information, in violation of 18 U.S.C. § 1084, and property used in the operation of an illegal gambling business and commission of the gambling offense. As such, the Defendant Funds are subject to forfeiture to the United States pursuant to 18 U.S.C. §§ 981(a)(1)(C), 984, and 1955(d).

4. In addition, there is probable cause to believe that the Defendant Funds are property involved in actual or attempted money laundering transactions, or property traceable to such property, in violation of 18 U.S.C. § 1956(a). As such, the Defendant Funds are subject to forfeiture to the United States pursuant to 18 U.S.C. §§ 981(a)(1)(A) and 984.

5. In addition, there is probable cause to believe that the Defendant Funds constitute proceeds of bank fraud, in violation of 18 U.S.C. § 1344. As such, the Defendant Funds are subject to forfeiture to the United States pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 984.

#### BACKGROUND

6. For approximately four years, FBI agents have been investigating illegal internet gambling businesses which, although typically based offshore, predominantly serve players

based in the United States. These gambling businesses offer "real money" casino games, poker, and sports betting to United States players, in violation of multiple federal criminal statutes including but not limited to 18 U.S.C. § 1084 (making it unlawful to use a wire in connection with placing a bet or wager), § 1955 (making it illegal to operate an illegal gambling business) and §§ 1956 and 1957 (money laundering).

7. Although illegal internet gambling companies keep their computer servers, management and support staff offshore, they must rely on the United States financial system both to obtain money from gamblers and to pay those gamblers who wish to withdraw funds from the online gambling companies. However, because United States financial institutions generally refuse to handle financial transactions that they know to be related to internet gambling, the offshore internet gambling companies and the payment processors who serve them must, as a matter of course, make false representations to United States financial institutions in order to conduct these transactions.

8. The leading internet gambling companies hire processing companies who have the ability to withdraw funds directly from United States consumers' bank accounts through a process known as the Automated Clearinghouse (or "ACH") system. The ACH system, which is administered by the Federal Reserve, allows for fast and efficient electronic funds transfers to and

from individuals' checking accounts through "e-checks" or "electronic checks." Payment processing companies with access to the ACH system can "pull" money from individual consumer bank accounts (i.e. debit the consumer's account) and route it to gambling companies (typically based abroad) and "push" money from the gambling companies into individual checking accounts to pay winnings (i.e. credit the consumer's account). Typically, a gambler simply logs onto the web site of an internet gambling company and chooses "e-check" or some similarly described option and enters his or her United States bank account information to complete these transactions. The gambling companies rely on these payment processors with access to the ACH system because Visa and Mastercard make it difficult for the United States residents to fund gambling transactions with credit cards.

9. Because United States banks cannot lawfully process ACH payments relating to online gambling, the payment processing companies hired by the offshore internet gambling companies must take steps to deceive financial institutions in order to induce them to allow such ACH processing. For example, external payment processors may create phoney non-gambling internet businesses (complete with web pages, and in many cases corporate formalities) and represent to banks that they are processing on behalf of these businesses, and may employ "descriptors" for the transactions that would be transmitted through the ACH system

that identified the transactions as being for various non-gambling web merchants. The "descriptors" would appear as text on the customer's bank statement--and be seen by the customer's bank--and would therefore make the transactions appear to relate to something other than gambling.

**PROBABLE CAUSE THAT THE  
DEFENDANT FUNDS ARE SUBJECT TO FORFEITURE**

10. I have reviewed records relating to accounts numbered 9012893 (the "EPX Settlement Account") and 9012907 (the "EPX Reserve Account") at First Bank of Delaware, held in the name of "EXP" (the "EPX Accounts"), the UMPQUA Account, and the HNB Account, and have spoken with representatives of First Bank of Delaware and with representatives of Electronic Payment Exchange ("EPX")<sup>1</sup> concerning the EPX Accounts. Furthermore, I have spoken with other FBI agents and have reviewed reports written by other FBI agents concerning the investigation of illegal online gaming businesses discussed above.

11. I have spoken with another FBI agent who has spoken with a cooperating witness ("CW") located in the Southern District of New York, who has previously provided reliable and corroborated information in connection with this investigation.<sup>2</sup>

---

<sup>1</sup> Although the Electronic Payment Exchange goes by the acronym "EPX," the name on the EPX Accounts is "EXP."

<sup>2</sup> The CW previously pled guilty to a gambling- and money laundering-related offenses in the United States District Court

I have also reviewed records provided by the CW relating to the CW's bank account and online gambling transactions. In July 2010, the CW transferred \$21 to the CW's online poker account with Full Tilt Poker, one of the largest online real-money poker sites in the world. Afterwards, an ACH transaction in the amount of \$21 posted to the CW's bank account with the descriptor "AUTOMATED DEBIT MAS 8773094831." Also in July 2010, the CW withdrew \$100 from the CW's online poker account with Full Tilt Poker, and later received an ACH deposit to the CW's bank account with the descriptor "AUTOMATED CREDIT MAS 8773094831." The originating bank for both ACH transactions was the First Bank of Delaware.

12. From my review of records relating to the EPX Accounts, including records relating to "MAS Inc." provided by First Bank of Delaware and by EPX; and my discussions with representatives of First Bank of Delaware and of EPX, I have learned the following in substance and in part:

a. EPX is a company based in Wilmington, Delaware, that provides third-party payment processing services.

b. MAS, Inc. ("MAS") is a customer of EPX. According to EPX's records, MAS is an "e-commerce" company located in Honolulu, Hawaii. The address provided for MAS

---

for the Southern District pursuant to a cooperation agreement.



appears to be the office of an accounting firm (the "Accounting Firm") located in Honolulu, Hawaii.

c. The materials provided by EPX to First Bank of Delaware concerning MAS include an Accountant's Report dated January 15, 2010, on letterhead from the Accounting Firm. The Accountant's Report notes that the report is a compilation "limited to presenting in the form of financial statements information that is the representation of management. We have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or any other form of assurance on them." The Accountant's Report further notes that "Management has elected to omit substantially all of the disclosures ordinarily included in financial statements prepared on the income tax basis of accounting." The letter states that "We [the Accounting Firm] are not independent with respect to MAS, Inc."

d. MAS is EPX's largest customer. In the month of July, MAS originated 338,914 transactions totaling \$15,264,414.05, out of \$59,954,678.30 by all EPX customers. In August, MAS originated 471,191 transactions totaling \$21,696,007.46, out of \$56,952,855.89 by all EPX customers. In September, MAS originated 487,123 transactions totaling \$21,047,054, out of \$55,660,215 by all EPX customers.

e. I have reviewed transaction detail reports for MAS transactions for the months of July, August, and September 2010. These reports include the date and amount of the transactions and the customer name, among other information. There are approximately thousands of transactions each business day, some debiting customer accounts (collecting money) and some crediting customer accounts (paying money out). The MAS transactions have characteristics consistent with transactions for other internet gambling payment processors that I have reviewed in the course of this investigation: The debit transactions are all identified with the ACH code "WEB" for internet-based transactions. The customer accounts are almost all in the names of individuals, rather than companies. The majority of transactions are in even dollar amounts, such as \$10, \$25, or \$50. The most common transaction size is a \$10 debit. The debits are typically in amounts from \$10 to \$100, ranging up to \$2,500. The credits range up to \$1500.

f. ACH transactions that EPX processes for credit to MAS are first credited to the EPX reserve account. The funds are then transferred to the EPX settlement account, where they are available to be transferred to other accounts, including customer accounts, the UMPQUA Account, or the HNB Account.

13. On or about September 21, 2010, a representative of First Bank of Delaware sent an email to a representative of

EPX asking for the originators of five MAS transactions. The EPX representative replied that MAS was the originator and that MAS owned several websites that sold different products. On or about September 27, 2010, the EPX representative provided a list of 88 websites that MAS purportedly owned and operated. From my discussions with the First Bank of Delaware representative, I learned that EPX never advised First Bank of Delaware that MAS was processing transactions for online gambling.

14. In my discussions with representatives of EPX, those representatives stated that they believed MAS was a third-party payment processor and did not know or believe that MAS processed transactions related to online gambling. According to the EPX representatives, had EPX known that MAS was processing transactions relating to online gambling, EPX would not have processed payments for MAS.

15. On or about November 12, 2010, the United States Attorney's Office for the Southern District of New York directed First Bank of Delaware, pursuant to Title 18, United States Code, Section 981(b)(2)(B), to freeze the EPX Accounts to prevent them from being dissipated or transferred by EPX or by MAS. On or about November 15, 2010, First Bank of Delaware transferred approximately \$6,823,874.90, representing the amount of funds in the accounts traceable to MAS, from the EPX Accounts to the EPX Segregated Account and lifted the restrictions on the EPX

Accounts. On or about November 18, 2010, at the Government's request, First Bank of Delaware released approximately \$671,589.02 to EPX from the EPX Segregated Account to offset ACH return transactions that effectively reversed prior ACH credits to the EPX Accounts for which the MAS customer had insufficient funds, provided an invalid bank account number, and similar reasons. Approximately \$6,152,285.88 from the EPX Accounts remains blocked and segregated in the EPX Segregated Account by First Bank of Delaware.

16. From my review of Hawaii National Bank records relating to the HNB Account, I learned in substance and in part that when MAS Inc. opened the HNB Account, it represented that it was an "Internet Retailer," and described its business as providing payment solutions for online retailers such as "Hotels, Bed and Breakfast, Travel Agents, Airlines, E-Marketing companies, and Activity Centers." The application materials do not disclose that MAS would process online gambling transactions.

17. From my review of EPX and First Bank of Delaware records relating to the EPX Accounts, UMPQUA records relating to the UMPQUA Account, and Hawaii National Bank records relating to the HNB Account, I have learned in substance and in part that since February 2010, MAS had transferred over approximately \$104 million from the EPX Accounts to the UMPQUA Account and the HNB Account. Most of the funds transferred to the UPMQUA Account

were then transferred to an account in Hong Kong in the name of "Griting Investments."

a. From on or about February 12, 2010, through on or about November 5, 2010, EPX processed ACH transactions crediting the UMPQUA Account with a net amount of approximately \$102,835,174.67 from MAS. This net number reflects approximately \$115,351,378.85 in ACH transfers to the UPMQUA Account and approximately \$12,516,204.18 in ACH transfers from the UPMQUA Account to the EPX Accounts.

b. From in or about August 12, 2009, through on or about November 9, 2010, approximately \$122,945,451.78 was transferred from the UMPQUA Account to an account in the name of "Griting Investments" in Hong Kong.

c. From on or about June 3, 2010, through on or about November 5, 2010, EPX processed ACH transactions crediting the HNB Account with a net amount of approximately \$1,497,473.41 from MAS. This net number reflects approximately \$1,827,304.11 in ACH transfers to the HNB Account and approximately \$329,830.70 in transfers from the HNB Account to the EPX Accounts.

d. From in or about January 29, 2010, when the HNB Account was opened, through on or about November 10, 2010, approximately \$3.7 million was transferred from the HNB Account to the UMPQUA Account.

STATUTORY AUTHORITY

18. The statutory provisions pursuant to which the Defendant Funds are subject to seizure and forfeiture are described below.

19. Title 18, United States Code, Section 981(a)(1)(A) subjects to forfeiture "[a]ny property, real or personal, involved in a transaction or attempted transaction in violation of . . . section 1956 . . . of this title, or any property traceable to such property."

20. Title 18, United States Code, Section 1956 provides, in pertinent part, that:

(a)(2). Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States--

(A) with the intent to promote the carrying on of specified unlawful activity . . . .

shall be guilty of a crime.

21. Title 18, United States Code, Section 1956(c)(7)(A) provides that the term "specified unlawful activity" includes "any act or activity constituting an offense listed in section 1961(1) of this title". Included among the enumerated offenses in 18 U.S.C. § 1961(1) is 18 U.S.C. § 1955, which prohibits the operating of illegal gambling businesses, 18

U.S.C. § 1084, and racketeering activity, which includes any act or threat involving gambling, which is chargeable under State law and punishable by imprisonment for more than one year.

22. Furthermore, 18 U.S.C. § 981(a)(1)(C) subjects to forfeiture:

Any property, real or personal, which constitutes or is derived from proceeds traceable to . . . any offense constituting 'specific unlawful activity' (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense.

23. Again, as noted in paragraph 25, supra, 18 U.S.C. § 1956(c)(7)(A) provides that the term "specified unlawful activity" includes "any act or activity constituting an offense listed in section 1961(1) of this title," and § 1961(1) includes 18 U.S.C. §§ 1955 and 1084 among the enumerated offenses.

24. Section 1961(1) of Title 18, United States Code, also lists bank fraud in violation of Title 18, United States Code, Section 1344. Section 1344 provides, in pertinent part, that:

Whoever knowingly executes, or attempts to execute, a scheme or artifice (1) to defraud a financial institution; or (2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises . . .

shall be guilty of a crime.

25. In addition, 18 U.S.C. § 1955 has its own forfeiture provision. Specifically, § 1955(d) provides that "[a]ny property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States."

26. Furthermore, 18 U.S.C. § 984 provides, in relevant part, that:

(a) (1) In any forfeiture action in rem in which the subject property is . . . . funds deposited in an account in a financial institution . . . .

(A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and

(B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.

(2) Except as provided in subsection (b), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

(b) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 1 year from the date of the offense.

27. Section 981(b)(1) of Title 18, United States Code, provides that any property subject to forfeiture to the United States under 18 U.S.C. § 981(a) may be seized by the Attorney



General. Section 981(b)(2) provides that such a seizure may be made "pursuant to a warrant obtained in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure."

28. In addition, Section 981(b)(3) provides that, notwithstanding the provisions of Federal Rule of Criminal Procedure 41(a), a seizure warrant may be issued pursuant to Section 981(b) by a judicial officer in any district in which a forfeiture action against the property may be filed under Title 28, United States Code, Section 1355(b). Under Section 1355(b)(1)(A), a forfeiture action or proceeding may be brought in the district in which any of the acts or omissions giving rise to the forfeiture occurred.

29. Were this affidavit to be made public at this time, it would interfere with an ongoing criminal investigation into certain individuals engaged in the criminal business of online gambling and money laundering. Making the affidavit public also would interfere with the ability of law enforcement officers to locate and seize the proceeds of criminal online gambling businesses.

30. Should the court issue a seizure warrant on the basis of this affidavit, making that warrant publicly available before it is executed could interfere with the ability of law


enforcement officers to seize the Defendant Funds before they are dissipated.

CONCLUSION


31. For the foregoing reasons, I submit that there is probable cause to believe that the Defendant Funds constitute (a) monies involved in a money laundering transaction or attempted money laundering transaction, in violation of 18 U.S.C. § 1956(a)(2)(A); and (b) the proceeds of illegal internet gambling and property involved in illegal internet gambling, in violation of 18 U.S.C. § 1955. Accordingly, the Defendant Funds are subject to forfeiture to the United States of America pursuant to 18 U.S.C. §§ 981(a)(1)(A) and (C) and 1955, and I respectfully request that the Court issue a seizure warrant for the Defendant Funds, as described in paragraph 2, supra.

32. I also respectfully request that this Affidavit be sealed until further order of the Court and any warrant issued based on this Affidavit be sealed until it is executed, so as not to jeopardize the investigation of this matter.

DEC 07 2010


  
Special Agent Rosemary Karaka  
Federal Bureau of Investigation

Sworn to before me this  
15<sup>th</sup> day of December, 2010

  
HONORABLE RONALD L. ELLIS  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK

This Affidavit must remain under seal until further Order of the Court and the accompanying Seizure Warrant must remain under seal until it is executed.

SO ORDERED

  
HONORABLE RONALD L. ELLIS  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK

DEC 07 2010